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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,623	09/30/2003	Paul R. Miller	NAA-PT001	7944
37533	7590	12/11/2006	EXAMINER	
JOSEPH M. KONIECZNY, P.C.			SNIDER, THERESA T	
PO Box 387			ART UNIT	
CONSHOHOCKEN, PA 19428-0387			PAPER NUMBER	

1744

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/676,623

Applicant(s)

MILLER ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/5/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 10/2/2006.

### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 22(0014), 24(0015), 30,34,34a,34b(0017) and 112(0019). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 1744

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin in view of Aleo, Ortega and Medwed.

Rankin discloses a similar set however fails to disclose the structure of the nozzle.

Rankin discloses a plurality of vacuum nozzles having the same structural configuration (fig. 1, #19).

Aleo discloses a nozzle having:

having a base with a top surface, bottom surface and peripheral surface (fig. 1, #10);

Art Unit: 1744

an agitation skirt attached to the peripheral surface of the base (fig. 1, #16);  
a concavity formed in the bottom surface (col. 2, lines 33-34) and  
an aperture extending through the base from the top surface to the concavity (fig. 3, unnumbered circle in middle).

Ortega discloses an agitation skirt mechanically fastened to a base (col. 2, lines 29-37). It would have been obvious to one of ordinary skill in the art to make the skirt of Aleo removable through the use of mechanical fasteners, as disclosed in Ortega, to allow for replacement in the event of damage thereof instead of having to replace the entire nozzle.

It would have been obvious to one of ordinary skill in the art to provide the nozzle structure of Aleo in view of Ortega and in Rankin to provide for a known nozzle structure in a similarly used nozzle.

Medwed discloses a pivotal connector attached to the base of a nozzle (fig. 2, #22). It would have been obvious to one of ordinary skill in the art to provide the pivotal connector of Medwed in Rankin in view of Aleo and Ortega to allow for the greatest ease in handling of the nozzle.

Rankin discloses the nozzles having a visual identifying indicia (col. 2, lines 23-24).

Aleo discloses the nozzles having a visual identifying indicia (col. 2, lines 19-20).

With respect to claim 13, it would have been obvious to one of ordinary skill in the art to have the nozzles of Rankin in view of Aleo, Ortega and Medwed and have different identifying indicia to easily identify a different person's station.

Art Unit: 1744

7. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin in view of Aleo, Ortega and Medwed and as applied to claims 12 and 13, respectively above, and further in view of Kim.

Rankin in view of Aleo, Ortega and Medwed disclose a similar set of nozzles however fails to disclose the material of the nozzle.

Rankin discloses the nozzle being constructed of a plastic (col. 2, lines 23-24). Aleo discloses the nozzle being constructed of a plastic (col. 2, line 20).

Kim discloses a nozzle constructed from polypropylene (col. 2, lines 30-31). It would have been obvious to one of ordinary skill in the art that to use the plastic of Kim in the nozzle of Rankin in view of Aleo, Ortega and Medwed and to allow for conventional molding techniques during manufacture.

With respect to claims 15-17, it would have been obvious to one of ordinary skill in the art that the nozzles of Rankin in view of Aleo, Ortega and Medwed are constructed of a material that is known to withstand sterilization.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin in view of Aleo as applied to claim 12 above, and further in view of Fields.

Rankin in view of Aleo, Ortega and Medwed discloses a similar set however fails to disclose the skirt having serrations.

Fields discloses an agitation skirt having serrations (fig. 4, S,#30). It would have been obvious to one of ordinary skill in the art to provide the serrations of Fields in the skirt of

Rankin in view of Aleo, Ortega and Medwed to allow for the most effective suctioning to the surface while still allowing for movement of the nozzle.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin in view of Aleo, Ortega and Medwed as applied to claim 13 above, and further in view of Sebor.

Rankin in view of Aleo, Ortega and Medwed discloses a similar set however fails to disclose the skirt having bristles.

Sebor discloses an agitation skirt having bristles (fig. 1, #12). It would have been obvious to one of ordinary skill in the art to provide the bristles of Sebor in Rankin in view of Aleo, Ortega and Medwed to allow for the most effective movement over the desired surface.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin.

Rankin discloses a similar set however fails to disclose different identifying indicia.

Rankin discloses a plurality of vacuum nozzles having the same structural configuration (fig. 1, #19).

Rankin discloses the nozzles having visual identifying indicia (col. 2, lines 23-24). It would have been obvious to one of ordinary skill in the art to have the nozzles of Rankin have different identifying indicia to easily identify a different person's station.

***Conclusion***

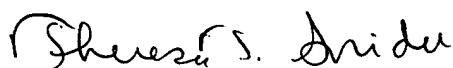
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP2000-083873 discloses a vacuum cleaner nozzle having visual identifying indicia. Katt discloses the use of mechanical fasteners for attachment of an agitation skirt to a nozzle body.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11/29/06



Theresa T. Snider  
Primary Examiner  
Art Unit 1744